



FORT WORTH
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
BURNETT PLAZA, 801 CHERRY STREET, SUITE 1900, UNIT 18
FORT WORTH, TX 76102

March 14, 2025

Via ECF

The Honorable Carol Bagley Amon
United States District Court Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Securities and Exchange Commission v. Schueler, et al.*, 1:23-cv-05749-CBA-PK

Dear Judge Amon,

Plaintiff Securities and Exchange Commission ("SEC" or the "Commission") submits this request for an extension of time and respectfully states the following.

On February 28, 2025, the Court dismissed the complaint in this matter, directing the SEC to file an amended complaint, if any, within 20 days of the order. Accordingly, an amended complaint must be filed by March 20, 2025. The Commission requests a 30-day extension of this deadline for several reasons. First, the staff of the Commission is in the process of reviewing the Court's order and reevaluating the evidence obtained both during its investigation and since filing the complaint to determine whether filing an amended complaint is warranted. Second, because of the structure of the Commission, which includes enforcement staff making recommendations to appointed Commissioners and the Acting Chair, this process requires more time than a determination involving a typical litigant. Accordingly, an additional 30 days will allow time for the Commission to make a determination in response to the Court's order. Finally, counsel for Defendant Richard Heart has requested to meet with the Commission's front office staff to discuss whether the Commission should file an amended complaint. An extension of time would give the staff of the Commission more options in considering how to accommodate Heart's request.

The Court's Individual Motion Practices and Rules require that all requests for extensions of time must state (1) the original date (*March 20, 2025*); (2) the number of previous requests for extension (*zero*); (3) whether previous requests were granted or denied (*not applicable*); and (4) the adversary's position, with reasons if opposed (*opposed; reasons as follows*). Upon consultation, Defendant Heart states:

Richard Heart respectfully opposes the SEC's request for an extension of time to amend the Complaint in this action. The SEC cannot remedy the myriad, long-

known deficiencies in its Complaint, and it deserves no more time than the Court has already afforded it. The SEC has known about the precise legal deficiencies for which this Court dismissed the Complaint for well over a year. Nothing supports the SEC's suggestion that the defects can be cured, nor that another 30 days will make a difference. The SEC has had 430 days since Mr. Heart's pre-motion letter, and 340 days since his motion to dismiss, to determine how to cure the deficiencies that Mr. Heart identified long ago, in the event of an adverse ruling. That should have been more than enough time for the SEC to formulate a strategy for amendment. That the SEC cannot fix its Complaint within the twenty days granted by the Court just further reveals that the Complaint is beyond repair.

In its opposition brief, the SEC admitted that it was unable to "cite with specificity those amendments it could make at this time." Dkt. 52 (SEC Opposition Brief), at 62 n.15. The SEC's July 22, 2024 deadline to amend its Complaint came and went without event. See Dkt. 42 (Case Scheduling Order dated May 6, 2024). Of particular note, the SEC fell short despite including in its previous filings two additional declarations comprising over 70 paragraphs of additional allegations—and 74 pages total of evidence outside of its Complaint. See Dkt. 53. This Court ordered that the SEC may only amend its Complaint if it believes in good faith that the amendment will remedy the deficiencies identified in the Opinion. Opinion at 31. If the SEC had any such good-faith basis to amend, there is no reason that it should need more time than what the Court already provided

The SEC requests an additional 30 days within which to file an amended complaint in this matter, making the new complaint due on April 21, 2025. This request is made in the interest of efficient resolution of this matter and not for the purpose of unreasonable delay.

Dated: March 14, 2025

Respectfully submitted,

/s/ Matthew J. Gulde

MATTHEW J. GULDE

Illinois Bar No. 6272325

U.S. Securities and Exchange Commission

Fort Worth Regional Office

Burnett Plaza, Suite 1900

801 Cherry Street, Unit #18

Fort Worth, TX 76102-6882

Ph: 817-978-1410

Fax: 817-978-4927

guldem@sec.gov

ATTORNEY FOR PLAINTIFF UNITED
STATES SECURITIES AND EXCHANGE
COMMISSION

cc:

QUINN EMANUEL URQUHART &
SULLIVAN LLP

Samuel P. Nitze
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
samuelnitze@quinnemanuel.com

Michael Liftik
Nicholas Inns
1300 I Street, NW, Suite 900
Washington, D.C. 20005
Telephone: (202)538-8000
Facsimile: (202)538-8100
michaelliftik@quinnemanuel.com
nicholasinns@quinnemanuel.com

Kristin Tahler
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100
kristintahler@quinnemanuel.com

GRAY REED & MCGRAW LLP

Chris Davis
Joshua Smeltzer
1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: (469) 320-6215
Facsimile: (469) 320-6926
cdavis@grayreed.com
jsmeltzer@grayreed.com

CLARK SMITH VILLAZOR LLP

Patrick J. Smith
Jeffrey D. Rotenberg
Brian T. Burns
250 West 55th Street, 30th Floor
New York, New York 10019
Telephone: (212) 582-4400
patrick.smith@csvllp.com
jeffrey.rotenberg@csvllp.com
brian.burns@csvllp.com

KIRK & INGRAM, LLP

David E. Kirk
43 West 43rd Street, Suite 279
New York, NY 10036
Telephone: (212)859-3504
dkirk@kirkingram.com

Michael W. Ingram
100 Wilshire Blvd., Suite 700
Santa Monica, CA 90401
Telephone: (310)487-0270
mingram@kirkingram.com